

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

TEXAS STATE LULAC; VOTO LATINO, §

§
Plaintiffs, §

v. §

§ 1:21-cv-00546-LY

BRUCE ELFANT, in his official capacity as the Travis County Tax Assessor-Collector; JACQUELYN CALLANEN, in her official capacity as the Bexar County Elections Administrator; ISABEL LONGORIA, in her official capacity as the Harris County Elections Administrator; YVONNE RAMON, in her official capacity as the Hidalgo County Elections Administrator; MICHAEL SCARPELLO, in his official capacity as the Dallas County Elections Administrator; and LISA WISE, in her official capacity as El Paso County Elections Administrator,

§
Defendants §

And §

KEN PAXTON, in his official capacity as Attorney General of Texas; LUPE C. TORRES, in his official capacity as Medina County Elections Administrator; and TERRIE PENDLEY, in her official capacity as Real County Tax Assessor-Collector,

§
Intervenor-Defendants. §

DEFENDANT BEXAR COUNTY ELECTION ADMINISTRATOR JACQUELYN' CALLENEN'S RESPONSE TO PLAINTIFF TEXAS STATE LULAC AND VOTO LATINO'S MOTION FOR SUMMARY JUDGMENT

Now comes Defendant Jacquelyn Callanen (“Defendant Callanen”), in her official capacity as the Bexar County Elections Administrator, pursuant to Rule 56 of the Federal Rules of Civil Procedure, the Court’s January 13, 2022 Scheduling Order governing motions for summary judgment, (Docket No. 102), and the Court’s April 29, 2022 Order extending the dispositive motions deadline (Docket No. 136) and respectfully files this response to Plaintiffs’ Motion for Summary Judgment and Memorandum of Law in Support (Docket No. 140).

I.
**SUMMARY OF THE PARTIES’ CONTENTIONS
IN THE PENDING MOTIONS**

On June 22, 2021, Plaintiffs Texas State LULAC and Voto Latino brought suit against Defendant Jacquelyn Callanen in her official capacity as the Bexar County Elections Administrator pursuant to 42 U.S.C. §§ 1983 and 1988. (Docket No. 1). Plaintiffs now move for summary judgment on Counts I, II, and III of their Complaint, and ask the Court to enjoin enforcement of portions of Senate Bill 1111, 87th Leg., Reg. Sess. (Tex. 2021). (Docket No. 140 at 1). Specifically, Plaintiffs challenge sections 1 through 5 of Senate Bill 1111, which amended sections 1.015(b), 1.015(f), 15.051(a), 15.052(b), 15.053(a) and 15.054(a) of the Texas Election Code. (Docket No. 140, pg. 1 footnote 1). Plaintiffs contend that these newly enacted portions of the Texas Election Code – which relate to residency for voter registration – violate the First, Fourteenth, and Twenty-Sixth Amendments to the U.S. Constitution by infringing on the rights to free speech and expression, unduly burdening the right to vote, and denying or abridging the right to vote on account of age. (Docket No. 1 at 52-78).

Intervenor-Defendant Ken Paxton also moves for summary judgment on the grounds that Plaintiffs lack standing to bring their claims; Plaintiffs have not shown that the challenged portions of SB 1111 burden the right to vote and even if Plaintiffs could show a minimal burden, the State's interests outweigh it; and SB 1111 does not violate the Twenty-Sixth Amendment. (Docket No. 138 at II-III). Intervenors-Defendants Lupe C. Torres and Terrie Pendley have noticed their joinder of Intervenor-Defendant Paxton's motion for summary judgment and indicated their agreement with his arguments. (Docket No. 139).

Plaintiffs sued Defendant Callanen for the manner in which she and other named Defendant elections administrators enforce specific portions of the Texas Election Code, referring to SB 1111. (Docket No. 1 at 22-27). Defendant Callanen denies that she has violated any state or federal laws or rights secured under the United States Constitution in conducting her activities as the Bexar County Elections Administrator. (Docket No. 57 at 23).

II. DEFENDANT CALLANEN'S RESPONSE

Defendant Callanen is not empowered or authorized to change Texas law passed by the Texas Legislature and signed by the Governor. Defendant Callanen's position is that her office will continue to comply with federal and state laws governing voter registration, including the law as determined by this Court or upon appellate review. Defendant Callanen takes no position on the competing claims and positions advanced in the pending summary judgment motions. Defendant Callanen believes that the competing summary judgment motions sufficiently present the legal issues that the Court has been requested to resolve. Accordingly, Defendant Callanen respectfully declines to

present her own brief, as it would not assist the Court in its task of determining the pure issues of law at issue in the respective summary judgment motions, and would instead serve only to increase the costs of litigation to all parties.

Respectfully Submitted,

JOE D. GONZALES
Bexar County Criminal District Attorney

Dated: May 23, 2022

By: /s/ *Lisa V. Cubriel*
LISA V. CUBRIEL
Bar No. 24045731
Assistant District Attorney, Civil Div.
LARRY L. ROBERSON
Bar No. 24046728
Civil Section Chief
101 W. Nueva, 7th Floor
San Antonio, Texas 78205
Telephone: (210) 335-2142
Fax: (210) 335-2773
Lisa.Cubriel@bexar.org
lroberson@bexar.org
*Attorneys for Defendant Bexar County
Elections Administrator Jacquelyn
Callanen*

CERTIFICATE OF SERVICE

I do hereby certify that, on the 23rd day of May, 2022, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which provided electronic service upon all parties.

/s/ *Lisa V. Cubriel*
LISA V. CUBRIEL